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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT TACOMA**

10 STATE OF WASHINGTON,

11 Plaintiff,

12 v.

13 THE GEO GROUP, INC.,

14 Defendant.

Case No. 3:17-cv-05806-RJB

**DEFENDANT THE GEO GROUP, INC.'S
OPPOSITION TO PLAINTIFF STATE OF
WASHINGTON'S MOTION TO SEAL
DOCUMENTS**

NOTE ON MOTION CALENDAR:
September 4, 2020

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17 Defendant The GEO Group, Inc. ("Defendant" or "GEO"), by and through its undersigned
18 counsel, hereby submits its Response to Plaintiff State of Washington's Motion to Seal
19 Documents. ECF 398. The State's motion to seal should be denied as moot.

20 **I. THE STATE'S MOTION TO SEAL.**

21 In connection with its motion to reopen discovery and unredact Exhibit 365, Washington
22 filed a motion to seal excerpts of the deposition transcript Brian Evans. ECF 398. In their motion,
23 the state argued that the "Stipulated Protective Order entered in this matter, ECF No. 70, requires
24 Washington to file under seal material GEO designates confidential, if GEO does not agree to
25 withdraw the Protective Order protections, withdraw the confidential designation, or redact the
26 documents." While this much is true, it is inapplicable here, a fact that the State would have
27 learned had they allowed for adequate time to confer.

1 Late in the afternoon on August 19, 2020, Washington advised GEO that it intended to rely
2 upon excerpts of the deposition of Brian Evans and requested that GEO meet and confer regarding
3 whether Washington needed to file the excerpts under seal. By mid-day Thursday, August 20,
4 2020, GEO's counsel indicated it was not available on such short notice, but could review the
5 deposition excerpts later that evening or by early morning Friday, August 21, 2020. Despite no
6 impending deadlines in this case, the State filed its motion without waiting for GEO's response.
7 Had it done so, it may have obviated the issue that is now before the Court. As such, the instant
8 motion was never subject to full and adequate conferral, which is defined by LCR 1 as "a good
9 faith conference in person or by telephone to attempt to resolve the matter in dispute without the
10 court's involvement."

11 Before filing this response, GEO reviewed the excerpts of the transcript which was marked
12 "Under Protective Order" on each page. GEO had no record of marking every page confidential.¹
13 GEO contacted the court reporter to find out why the transcript was marked "Under Protective
14 Order" on every page. ECF 401-1 Scheffey Dec. at ¶ 2. The court reporter did not have a record of
15 either side making a request to mark the transcript confidential, but stated that if GEO wished to
16 change the designation of any portion of the transcript it would need "an agreement from all
17 parties," which is inconsistent with the parties' protective order. *Id.* at ¶ 3-5. GEO intends to send
18 updated designations to the State now that it has learned of the court reporter's error. While GEO
19 will seek to have certain exhibits and testimony discussing GEO's finances marked confidential,
20 GEO has reviewed the portions of the deposition transcript filed by the State and does not intend to
21 mark them as confidential.

22 II. CONCLUSION

23 For the foregoing reasons, the State's motion to seal should be denied as moot as neither
24 party claims confidentiality over the filed transcript excerpts.

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¹ Had the State waited for a conferral, GEO would have indicated that this was one of the concerns
GEO had with the transcript.

1 Respectfully submitted, this 2nd day of September, 2020.

2 By: s/ Adrienne Scheffey

3 **AKERMAN LLP**

4 Colin L. Barnacle (Admitted *pro hac vice*)

5 Christopher J. Eby (Admitted *pro hac vice*)

6 Adrienne Scheffey (Admitted *pro hac vice*)

7 1900 Sixteenth Street, Suite 1700

8 Denver, Colorado 80202

9 Telephone: (303) 260-7712

10 Facsimile: (303) 260-7714

11 Email: colin.barnacle@akerman.com

12 Email: christopher.eby@akerman.com

13 Email: adrienne.scheffey@akerman.com

14 By: s/ Joan K. Mell

15 **III BRANCHES LAW, PLLC**

16 Joan K. Mell, WSBA #21319

17 1019 Regents Boulevard, Suite 204

18 Fircrest, Washington 98466

19 Telephone: (253) 566-2510

20 Facsimile: (281) 664-4643

21 Email: joan@3brancheslaw.com

22 *Attorneys for Defendant The GEO Group, Inc.*

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PROOF OF SERVICE

I hereby certify on the 2nd day of September, 2020, pursuant to Federal Rule of Civil Procedure 5(b), I electronically filed and served the foregoing **DEFENDANT THE GEO GROUP, INC.’S OPPOSITION TO PLAINTIFF STATE OF WASHINGTON’S MOTION TO SEAL DOCUMENTS** via the Court’s CM/ECF system on the following:

Marsha J. Chien
Andrea Brenneke
Lane Polozola
Patricio A. Marquez
OFFICE OF THE ATTORNEY GENERAL
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104

Attorneys for Plaintiff

s/ Toni Domres
Toni Domres